

Our Attorneys handling the EEOC case had given us a brief summary of their actions earlier this month in regards to our filings with the Court of Appeals. The following paragraph contains the synopsis:

On November 18 we filed a detailed Memorandum responding to the Court of Appeals' Order to Show Cause. We made a strong argument that the Preliminary Injunction should have been granted based on the likelihood that we will succeed on the merits of this case because we have direct evidence of age discrimination. Making this argument successfully now before the Court of Appeals not only responds to the Court of Appeals' main concern, but, if successful, it would have a positive, powerful impact on any future litigation of our case in the District Court. Right now, the Court of Appeals is the most direct route to obtaining such a determination, as well as the most cost-effective. If the Court of Appeals disagrees with our arguments, the case will return to the District Court for further proceedings.

I will attempt to recap the strategy since the Judge's decision in October was to not grant the injunctive relief. We have determined that our best chance for success is to petition the Court of Appeals in that the Judge ignored much of our direct evidence in making his decision. In order to get an Injunction granted the burden lies in fulfilling four conditions: 1. Must have reasonable chance for success of case on merit; 2. Must prove irreparable harm if motion is not granted; 3. Must prove other party will not be harmed if granted; 4. Must be for the public good.

Our petition was not granted by the judge because we did not meet the first two conditions in his opinion. We vigorously disagree, and we are proceeding to the Appeals Court to ensure the judge considers all of our evidence. Obviously at this point we don't expect to get an injunction granted. We are now going forward with our case, and will leave it to the judges to decide how to make our plaintiffs "whole." The important part of this step is to make sure that the judge's decision does not hang out there unanswered. Our chance of getting injunctive relief was less than 50/50 going in, and we decided that the possible outcome was worth the risk. Our next step is to request that the Appeals Court decides to direct the judge to consider the evidence he ignored in the injunctive phase. This is going to take time and we expect the three judge panel will have to sort through all of the volumes and reams of evidence already presented.

I don't have a timeline on this yet, but I would expect this process to take months rather than weeks. One of the benefits of getting a preliminary injunction would have been prevent the FAA from using the stall tactics that they have perfected over the years. They profit from delay and they are not motivated to move this quickly through the Courts.

One of the issues that have developed varying opinions is the cost of the suit from here forward. Earlier this year the BOD had decided that only dues-paying members would continue to benefit from NAATS paying for the cost of the Lawsuit. The rationale was that the Board wanted to make sure that members that continued to support our Union during one of its toughest times didn't look left and right and see that the members that bailed on NAATS receive the same benefit as the ones that hung in there with us. We also realized that many of the other plaintiffs that were listed on the suit would have to leave our Union because they took employment offers elsewhere. We understood that people that left the FAA or Flight Service to attempt to earn their retirements elsewhere would no longer be eligible to remain as full members in our Union. Our dilemma was in deciding how to be fair to long-standing members that were leaving our bargaining unit because of job change and continue to assist our members that stayed loyal. Our choice was to decide that anyone who separated from FSS as a member of NAATS in good standing and any current dues paying member would continue to receive no cost to continue on the lawsuit. We also decided that anyone who continued in FSS that wasn't a member of NAATS could continue on the suit but the monetary obligation was theirs, and that we would let the Attorney bill them for any further service. Our intent was to try and be loyal to our members that are supporting us.

The Board has revisited this thought process. There will be no change to the Union's funding of The Lawsuit. We will continue paying for the suit as previously reported. Any person that was covered prior to the Lockheed transition will continue to be covered. If you are in the Union now you are covered; if you are laying on the beach in Kuai you are covered.

I have been told that there is a perception that the Board was trying to use the Lawsuit in an attempt to lure members to join, perhaps as a way to coerce them. I don't believe that thought

process really went into our decision. I don't want to coerce members to join ever. I feel that the only reason to join a Union is to work together to protect worker rights. Period. That was why I voted to fund the lawsuit in the first place, to protect workers.

I have only been on the Board for one year, but in the year I have served it is abundantly clear that our employer has done everything in its power to harm and destroy our workplaces and our careers. I have been astounded as to the depth that our employer has stooped to annihilate our workforce. I've been there as people I have loved and worked with for nearly twenty years have split up their families or scrapped their plans for college for their kids because of the FAA's short-sighted plan to save money. Other people have quietly slipped out the back door and felt "survivor guilt" as they did what they could to secure their retirements. On some occasions we weren't really even able to say goodbye because it became too painful. If this had been left to the FAA we easily could have spiraled into an "every man for themselves" mentality and God help anyone who hesitated in a single purpose of saving themselves. This dysfunctional system was created by the FAA. NAATS did not build this system and from where I sit NAATS has been the only organization to oppose it. It has been easy to fire shots at NAATS or the Board of Directors for choices and decisions made. Please remember as a member you have every right and perhaps an obligation to criticize. We are a living organization.

I hope that every employee who has remained with Lockheed will take a minute to make an honest appraisal of what NAATS has done on their behalf. If your introspective answer is that the Union has benefited you and can again; I hope that you will send your check to NAATS to get back as a dues-paying member in good standing. Many folks have been waiting to see what will happen before they act. Let's think for a moment what will happen if you do not. The schedule at my facility was unilaterally imposed without any employee input. I understand that with the loss of employees we have experienced a new schedule will be imposed with the same input. I was told last Thursday that my scheduled swing shift for Saturday was now a Dayshift. I got two day's notice. The leave schedule will be discussed at facilities soon and I wonder how many people are going to have input into that. How many people have had a focal person to handle the pay problems we have been seeing? The issues that our Union has handled are starting to become apparent. When this ill-thought-out scheme to privatize our jobs was first launched by the FAA we all knew that the functions provided by FSS were too numerous and invasive to the ATC system to list them accurately and completely. The Union is similar in the sense that it is difficult to understand all that they do till it's gone.

Lockheed has only now begun to learn the heart that has been the Flight Service Air Traffic Controller. They have been surprised at the degree of professionalism and integrity that we have brought to the workplace. I am not surprised as I have been part of it for almost nineteen years. When our Union gains recognition, and understand NAATS **will** gain successor status, the Union will only be as strong as we are. We are once again about to rebuild our organization for whatever fight we have ahead. We need all hands on deck.

If you have any questions feel free to call.

Mike Sheldon
New England Director
203-675-6201